

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Robert G. Taub

Fairfield Post Office
Fairfield, Kentucky

Docket No. A2012-23

ORDER AFFIRMING DETERMINATION

(Issued February 9, 2012)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012”.¹ The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. *Id.* It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* at 2. Lastly, the Postal Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

¹ United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, at 1 (Notice).

The Postal Service's Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service's request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

On October 20, 2011, William T. Trent, personally, in his capacity as Mayor, and on behalf of the residents of Fairfield, Kentucky (Petitioner) filed a petition with the Commission seeking review of the Postal Service's Final Determination to close the Fairfield, Kentucky post office (Fairfield post office).² The Final Determination to close the Fairfield post office is affirmed.³

II. PROCEDURAL HISTORY

On October 26, 2011, the Commission established Docket No. A2012-23 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.⁴

On November 2, 2011, the Postal Service filed the Administrative Record with the Commission and on November 17, 2011.⁵ The Postal Service also filed comments requesting that the Commission affirm its Final Determination.⁶

² Petition for Review received from William T. Trent, in his capacity as Mayor and on behalf of the residents of Fairfield, Kentucky, regarding the Fairfield, Kentucky Post Office 40020, October 20, 2011 (Petition).

³ The Commission is divided equally, 2-2, on the outcome of this appeal. In the absence of a majority, the Final Determination stands.

⁴ Order No. 927, Notice and Order Accepting Appeal and Establishing Procedural Schedule, October 26, 2011.

⁵ The Administrative Record is attached to the United States Postal Service Notice of Filing, November 2, 2011. A corrected Administrative Record is attached to the United States Postal Service Notice of Filing Corrected Administrative Record (Errata), November 17, 2011 (Administrative Record). In addition, the Postal Service submitted legible copies of the round-date stamped cover sheets for the Final Determinations that were posted in the Fairfield and Bloomfield post offices respectively. The copies included in the corrected Administrative Record were illegible. The corrected Administrative Record includes, as Item No. 47, the Final Determination to Close the Fairfield, KY Post Office and Establish Service by Nonpersonnel Unit (Final Determination).

⁶ United States Postal Service Comments Regarding Appeal, December 16, 2011 (Postal Service Comments). The Postal Service filed a Motion of the United States Postal Service for Late Acceptance of Comments Regarding Appeal, December 16, 2011. The motion is granted.

Petitioner filed a participant statement supporting his Petition.⁷ On December 30, 2011, Petitioner filed a reply brief.⁸ On December 30, 2011, the Public Representative filed comments.⁹

III. BACKGROUND

The Fairfield post office provides retail postal services and service to 93 post office box or general delivery customers. Final Determination at 2. No delivery customers are served through this office. *Id.* The Fairfield post office, an EAS-11 level facility, provides retail service from 10:00 a.m. to 2:00 p.m., Monday through Friday, and 8:30 a.m. to 11:45 a.m. on Saturday.¹⁰ *Id.* at 2. Lobby access hours are 8:00 a.m. to 4:00 p.m., Monday through Friday and 8:30 a.m. to 4:00 p.m. on Saturday. *Id.*

The postmaster position became vacant on November 1, 2009, when the Fairfield postmaster retired. *Id.* A non-career postmaster relief officer-in-charge (OIC) was installed to operate the office. *Id.* at 2, 9. Retail transactions average 19 transactions daily (17 minutes of retail workload). *Id.* at 2. Office receipts for the last 3 years were \$19,142 in FY 2008; \$18,980 in FY 2009; and \$17,606 in FY 2010. *Id.* There are no permit or postage meter customers. *Id.* By closing this office, the Postal Service anticipates savings of \$39,443 annually. *Id.* at 9.

After the closure, retail services will be provided by the Bloomfield post office located approximately 4 miles away.¹¹ The Postal Service plans to either sell or lease the Fairfield post office but retain the space for the post office boxes. If the Postal

⁷ Participant Statement received from William T. (Tom) Trent, November 21, 2011 (Participant Statement).

⁸ Reply Brief in Response to Answering Brief, December 30, 2011 (Reply Brief).

⁹ Public Representative Comments, December 30, 2011 (PR Comments).

¹⁰ Petitioner notes that the Postal Service incorrectly lists Saturday hours of 8:30 a.m. to 4:00 p.m. in Postal Service Comments at 2. Reply Brief at 1. Apparently, the Postal Service listed the Saturday lobby hours in the Postal Service's comments rather than the retail hours. The Postal Service listed the correct retail hours in the Final Determination at 2.

¹¹ *Id.* at 2. MapQuest estimates the driving distance between the Fairfield and Bloomfield post offices to be approximately 4.11 miles (6 minutes driving time).

Service is not successful with that option, then cluster box units (CBUs) will be erected to provide service to the Fairfield customers. Delivery service may also be provided by rural or contract carrier through the Bloomfield post office. *Id.* at 2, 5, Concern Nos. 9 and 19. The Bloomfield post office is an EAS-16 level office, with retail hours of 9:00 a.m. to 4:00 p.m., Monday through Friday, and 9:00 a.m. to 11:00 a.m. on Saturday. *Id.* at 2. Ninety-one post office boxes are available. *Id.* The Postal Service will continue to use the Fairfield name and ZIP Code. *Id.* at 8, Concern No. 2.

IV. PARTICIPANT PLEADINGS

Petitioner. Petitioner opposes the closure of the Fairfield post office. He alleges the Postal Service failed to consider the effect of closing the Fairfield post office on the community and that the closing is inconsistent with 39 U.S.C. 101(b) concerning the closure of small post offices. Petition at 2. Petitioner questions the plans for CBUs which he contends are not as secure as post office boxes. *Id.* at 5. Petitioner also questions the proposed delivery from the Bloomfield post office since other rural routes in the Fairfield community are served by the Cox Creek post office. *Id.* Petitioner challenges the economic savings based on a postmaster salary since the Fairfield post office has been operated by a postmaster relief (PMR) employee. *Id.* Petitioner raises several additional questions regarding CBUs and whether an outgoing mail receptacle will be provided. Participant Statement at 2. Petitioner states there is confusion about addresses in the community and confusion about how services will be obtained by customers with delivery to CBUs. Reply Brief at 1, 2.

Postal Service. The Postal Service argues that the Commission should affirm its determination to close the Fairfield post office. Postal Service Comments at 2. The Postal Service believes the appeal raises three main issues: (1) the Postal Service failed to consider the effect of the closing on the community; (2) the Postal Service failed to consider the effect on postal services; and (3) the calculation of economic savings was inaccurate. *Id.* at 1. The Postal Service asserts that it has given these and

other statutory issues serious consideration and concludes that the determination to discontinue the Fairfield post office should be affirmed. *Id.* at 2.

The Postal Service explains that its decision to close the Fairfield post office was based on several factors, including:

- the postmaster vacancy;
- a minimal workload and declining office revenue;
- a variety of delivery and retail options (including the convenience of rural delivery and retail service);
- minimal impact on the community; and
- the expected financial savings.

Id. at 5. The Postal Service contends that it will continue to provide regular and effective postal services to the Fairfield community when the Final Determination is implemented. *Id.*

The Postal Service also asserts that it has followed all statutorily required procedures and has addressed the concerns raised by Petitioner regarding the effect on postal services, effect on the Fairfield community, economic savings, and effect on postal employees. *Id.* at 16.

The Postal Service states that services will be provided by the Bloomfield post office and services will also be available from a mail carrier to roadside mailboxes, which can be installed to avoid damage from snowplows and with locks to address security concerns. *Id.* at 6-8. In addition, the Postal Service notes it plans to continue serving the existing post office boxes at their present location if the Postal Service can sell or lease the existing space and retain space in it. If the Postal Service is not able to lease or retain the space, then the Postal Service will install CBUs. Thus, post office box customers will be able to retain their present addresses. *Id.* at 8.

The Postal Service notes that Fairfield customers will not need to change their addresses unless they decide to switch from post office box customers to mail delivery by a rural carrier. Even in that event, mail will be forwarded in accordance with postal regulations allowing customers time to deplete their supplies and make address

revisions when ordering new supplies. *Id.* at 12. The Postal Service also notes the surveys indicate customers would continue to patronize Fairfield businesses even if the Fairfield post office were closed. *Id.*

The Postal Service contends the economic savings calculations are correct since they are based on the potential of all current post office box customers requesting mailbox delivery. *Id.* at 14. The Postal Service also contends that a variety of factors were considered in analyzing whether or not to discontinue the Fairfield post office. Thus, the closing is not in violation of the policies of title 39. *Id.* at 15.

Public Representative. The Public Representative states there is no evidence the closure of the Fairfield post office will impose a hardship on the Fairfield residents or businesses. The Public Representative notes services will be available from the Bloomfield post office and from a rural carrier. Given the short distance of four miles to the Bloomfield post office, there is no evidence that the closure of the Fairfield post office will adversely affect the migration of new businesses to the community. PR Comments at 3-4.

The Public Representative also states the closing of the Fairfield post office appears to increase the options of postal services offered to the Fairfield community. *Id.* at 4. The Public Representative agrees that the calculation of the economic savings is inflated based on the postmaster salary and benefits since the postmaster retired two years ago. *Id.* at 6. However, the Public Representative also notes that so long as the salary and related benefits of the OIC are greater than \$4,836, economic savings through the closing of the Fairfield post office will still be realized. Public Representative Comments at 7-8.

V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section

404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. *Id.*, § 404(d)(5).

The record indicates the Postal Service took the following steps in providing notice of its intent to close. On February 25, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Fairfield post office. Final Determination at 2. A total of 99 questionnaires were distributed to delivery customers. Other questionnaires were made available at the retail counter. A total of 31 questionnaires were returned. On March 14, 2011, the Postal Service held a community meeting at Gardiner Hall, St. Michael's Catholic Church to address customer concerns. Seventy-four customers attended.

The Postal Service posted the proposal to close the Fairfield post office with an invitation for comments at the Fairfield and Bloomfield post offices from April 7, 2011 through June 8, 2011. *Id.* The Final Determination was posted at the same two post

offices from September 16, 2011 through October 18, 2011. Administrative Record, Item No. 49.

The Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. 39 U.S.C.

§ 404(d)(2)(A). The Postal Service must also comply with the provisions of 39 U.S.C. § 101(b), which prohibits closing any small post office solely for operating at a deficit.

Effect on the community. Fairfield, Kentucky is an incorporated community located in Nelson County, Kentucky Administrative Record, Item No. 16. The community is administered politically by the Fairfield City Commissioners. Police protection is provided by Nelson County Sheriff's Department. Fire protection is provided by the Northeast-Nelson County Fire Department. The community is comprised of farmers, retirees and those who commute to work in nearby communities. Residents may travel to nearby communities for other supplies and services. See *generally* Administrative Record, Item No. 22 (returned customer questionnaires and Postal Service response letters).

As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal Service met with members of the Fairfield community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Fairfield post office, customers raised concerns regarding the effect of the closure on the community. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 8-9.

Petitioner raises the effect of the closing on the Fairfield community. Petition at 5; Reply Brief at 1. The Postal Service contends that it considered this issue and

explains that the community identity will be preserved by continuing the use of the Fairfield name and ZIP Code. Postal Service Comments at 12. The Postal Service also notes that a majority of the customers stated they would continue to patronize community businesses after the closure. Postal Service Comments at 12.

The Postal Service has adequately considered the effect of the post office closing on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

Effect on employees. The Postal Service states that the Fairfield postmaster retired on November 1, 2009 and that a non-career postmaster relief OIC has operated the Fairfield post office since then. Final Determination at 2, 9. It asserts that after the Final Determination is implemented, the temporary OIC may be separated from the Postal Service and that no other Postal Service employee will be adversely affected. *Id.*

The Postal Service has considered the possible effects of the post office closing on the OIC and has satisfied its obligation to consider the effect of the closing on employees at the Fairfield post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).

Effective and regular service. The Postal Service contends that it has considered the effect the closing will have on postal services provided to Fairfield customers. Postal Service Comments at 6. It asserts that customers of the closed Fairfield post office may obtain retail services at the Bloomfield post office located 4 miles away. Final Determination at 2. Delivery service will be provided by rural carrier through the Bloomfield post office. *Id.* The Fairfield post office box customers may keep their Fairfield post office boxes if the Postal Service is able to lease or retain the current post office box space or the post office box customers may obtain post office box service at the Bloomfield post office, which has 91 boxes available. *Id.* at 2, 9. The Postal Service also states that if it is not able to lease or retain the current space in the Fairfield community for post office box customers, CBUs will be installed. These free-standing individually locked mail compartments will be maintained by the Postal Service. They will be safely located so that customers are not required to travel an unreasonable distance to obtain their mail. Postal Service Comments at 9.

For customers choosing not to travel to the Bloomfield post office or for those who choose not to retain their post office boxes or switch to CBUs if necessary, the Postal Service explains that retail services will be available from the carrier. *Id.* at 6-7. The Postal Service states that carrier service is beneficial to many senior citizens and those who face special challenges because they do not have to travel to the post office for services. The Postal Service adds that it is not necessary to meet the carrier for service since most transactions do not require meeting the carrier at the mailbox. *Id.*

The closing of the Fairfield post office offers the Fairfield community members a variety of postal services including traveling to the nearby Bloomfield post office, receiving post office box service or delivery to CBUs, or delivery service by rural route carrier. Although Petitioner raises concerns about the fact that postal customers in the community may have different addresses, this would be a result of the customer's choice. Furthermore, the Commission concludes the concerns regarding security of the mail have been adequately addressed by the Postal Service which offers various options including continued use of post office boxes, locked CBUs or the option to place a lock on a rural mail box. The Postal Service has also addressed concerns about snowplow damage to rural boxes by noting installation methods to avoid such damage.

In response to Petitioner's allegation that the community has not been informed about out-going mail pickup, the Postal Service has stated that mail would be picked up from the collection box at 4:00 p.m. daily. Final Determination at 6; Postal Service Comments at 8.

The Postal Service has considered the issues raised by customers concerning effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

Economic savings. The Postal Service estimates total annual savings of \$39,443. Final Determination at 9. It derives this figure by summing the following costs: postmaster salary and benefits (\$44,279) minus the cost of replacement service (\$4,836). *Id.*

Both Petitioner and the Public Representative challenge the economic savings based on the salary and benefits of the postmaster. The Commission has previously

observed that the Postal Service should include in its estimate of savings those costs likely to be eliminated by the closing. The Fairfield post office postmaster retired on November 1, 2009. Final Determination at 2. The post office has since been staffed by a non-career postmaster relief OIC who, upon discontinuance of the post office, may be separated from the Postal Service. The postmaster position and the corresponding salary will be eliminated. See, e.g., Docket No. A2011-67 United States Postal Service Comments Regarding Appeal, October 24, 2011, at 13; and Docket No. A2011-68, United States Postal Service Comments Regarding Appeal, November 2, 2011, at 10. Furthermore, notwithstanding that the Fairfield post office has been staffed by an OIC for approximately two years, even assuming the use of the presumably lower OIC salary, the Postal Service would have satisfied the requirements of section 404(d)(2)(A)(iv).

Petitioner questions whether the calculations for replacement service are accurate. The Postal Service notes this calculation is based on the unlikely event that all 93 of the present Fairfield post office box customers were to request mailbox delivery and discontinue delivery to their post office boxes. Postal Service Comments at 14.

The Postal Service has satisfied the requirement that it consider economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

Section 101(b). Section 101(b) prohibits closing any small post office solely for operating at a deficit. Petitioner alleges that the Postal Service is closing the Fairfield post office solely for economic reasons. Petition at 2.

To be sure, economics plays a role in the Postal Service's decision. However, the Commission is not prepared to conclude that the Postal Service's determination violates section 101(b). In addition to considering workload at the Fairfield post office revenues declining and averaging only 19 retail transactions per day, the Postal Service took into account other factors such as the postmaster vacancy, the minimal impact on the community, and expected financial savings. In addition, it considered the alternate delivery and retail options available to customers. Final Determination at 10.

The Postal Service did not violate the prohibition in section 101(b) on closing the Fairfield post office solely for operating at a deficit.

VI. CONCLUSION

The Postal Service has adequately considered the requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the Fairfield post office is affirmed.¹²

It is ordered:

The Postal Service's determination to close the Fairfield, Kentucky post office is affirmed.

By the Commission.

Shoshana M. Grove
Secretary

¹² See footnote 3, *supra*.

DISSENTING OPINION OF CHAIRMAN GOLDWAY

The Postal Service appears to be offering residents of Fairfield a comprehensive set of services that are adequate and are equivalent to those they currently receive. I would concur with my colleagues on this determination but for the fact that the Postal Service continues to provide incorrect and misleading information in the Administrative Record regarding the potential economic savings. As such, the Postal Service has not adequately considered economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

The Postal Service argues that savings should be calculated based on a full-time postmaster's salary. Yet the Fairfield post office has been operated by a non-career postmaster relief (PMR) officer-in-charge (OIC) since the former postmaster retired on November 1, 2009. On the one hand, the Postal Service argues that the effect on employees of this closing will be minimal because only a non-career OIC will be eliminated; yet on the other hand, it argues that the savings should be calculated using a full-time postmaster position.

The Postal Service already claims billions of dollars in savings from reducing labor costs. I believe the savings from substituting OICs in postmaster positions throughout the nation have already been included in those billions. There are inherent and blatant contradictions in the Administrative Record that must be corrected on remand.

It is not the statutory responsibility of the Commission to correct the Administrative Record for the Postal Service and certainly not to make its own surmise about what and/or whether there would be savings if accurate data was in the

Administrative Record. Therefore, the decision to close should be remanded to the Postal Service to correct the record and present a more considered evaluation of potential savings.

Ruth Y. Goldway

DISSENTING OPINION OF VICE CHAIRMAN LANGLEY

The Postal Service did not adequately consider the economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv). The Postal Service should take into consideration that a non-career postmaster relief (PMR) has been in charge of this facility since November 2009, not an EAS-11 postmaster, and reflect the PMR's salary and benefits in its cost savings analysis. As a government entity, the Postal Service should ensure that its cost/benefit analysis accurately identifies capturable cost savings and does not overstate savings.

I find that the Administrative Record evidence does not support the Postal Service's decision to discontinue operations at the Fairfield post office and should be remanded.

Nanci E. Langley